

**General Contractors Association of Saskatchewan**

**Presentation to**

**Worker's Compensation Board (WCB) Committee of Review**

**October 20, 2015**

Thank you for the opportunity to present the views of the General Contractors Association of Saskatchewan today.

In offering our recommendations to the Workers Compensation Board Committee of Review, we wish to make it clear that our association sees this as much more than simply a scheduled hearing. The General Contractors Association of Saskatchewan sees this as a pivotal juncture in how Saskatchewan deals with workplace safety.

The issues we bring to these hearings and the recommendations we will make will be part of a significant opportunity for all of those involved in workplace safety to create a new standard that will serve all of us, today and well into the future.

This vital issue of workplace safety requires the ongoing commitment to best practices from the employer community. Secondly, it requires the same continued focus on safety on the part of employees.

Thirdly, given the opportunity before us, we sincerely hope that the Workers Compensation Board's Committee of Review will seize this opportunity to set the bar higher than ever before. That is going to require the will to change, to do things differently and to adopt higher expectations. The issue of workplace safety deserves nothing less than that level of commitment from the Committee of Review as it develops its own recommendations from this hearing process.

The General Contractors Association of Saskatchewan represents the majority of this province's commercial and industrial contractors who, on any given day, are responsible for the safety of more than 20,000 workers in variety of workplaces all across the province. We believe that we speak for a large and important constituency – that is, people for whom workplace safety is a paramount issue.

The General Contractors Association has always had a significant interest in the Workers Compensation Board and, as a result, has engaged in conversations with WCB on a range of topics. WCB has a significant impact on the construction industry in Saskatchewan and so, for that reason, today we bring forward four specific recommendations, based on research and consultation, that we believe will make workplaces across Saskatchewan safer than ever before.

First, we recommend the implementation of a system of incentives that encourage investment in effective health and safety programs.

Second, the General Contractors Association of Saskatchewan recommends a thorough reorganization of the WCB structure.

Third, we recommend that the Appeals function be separated from the function of the WCB Board as a whole.

Finally, we believe that the B13 code needs to be reviewed and consideration given to creating a new sub-code for office staff.

On our first recommendation, the implementation of an incentive system that encourages investment in effective health and safety programs, we put the concept forward for this reason - under an incentive program, there are only winners, no losers, in the process. Employees, employers, the Workers Compensation Board and the public are better served.

The current Experience Rating Program is a reactive measure that is based on lagging indicators of an employer's injury rate. While we believe that firms should be rewarded based on results, it is also difficult to gauge if good safety results are due to a strong safety culture or merely good luck. We propose to incentivize proactive behavior, specifically achievement of a Certificate of Recognition through the Saskatchewan Construction Safety Association.

This is not a new concept. Incentive programs that encourage the best in health and safety programs, and that enhance workplace safety, are well established in other jurisdictions in Canada. British Columbia, Alberta, Manitoba, Newfoundland / Labrador and Nova Scotia have one thing in common. All of them have a form of incentive program that rewards best practices in workplace injury prevention.

By way of example, Alberta has the lowest workplace injury rate in the country. That province also has the longest standing incentive program for workplace safety in Canada. We do not believe this is coincidence. We believe this is the result of adopting and rewarding best practices in workplace safety programming.

A recent study, commissioned by WorkSafeBC and conducted by UBC, studied injuries in the Construction and Forestry sectors over an 8 year time period from 2005 to 2012 and concluded that firms with their Certificate of Recognition averaged a 12% lower rate of short-term disability, long-term disability and fatalities, as well as a 17% lower serious injury rate.

As we have stated, it has been found that certification programs, offered within an incentive system, have resulted in fewer injuries. But it goes past that. Other positive results include reduced time loss due to injury and shorter claim durations. These are clearly defined benefits of a certification process. We believe these results are possible, and they are important to all of us in Saskatchewan.

This is a situation where the status quo is not good enough. We have the opportunity to effectively drive down the workplace injury rate through this proven Certificate of Recognition process. The GCAS believes that, given this opportunity, we also have the obligation to adopt this best practice.

Therefore, the General Contractors Association of Saskatchewan strongly recommends that WCB implement a system of incentives that encourage employers to develop, implement and maintain effective health and safety programs. This could be accomplished by pooling funds within the B codes and returning funds back to companies that achieve a Certificate of Recognition.

The safety program that is required to achieve and maintain a Certificate of Recognition is subject to ongoing audits of the use of documentation, the quality of that documentation, the effectiveness of implementation procedures and the manner in which the program is operated. This rigorous process is not free, nor is it simple. But, clearly, the results indicate it is most certainly worth the investment.

A positive and proactive incentive program should be based on investments made, and actions taken, to prevent incidents. By encouraging companies to invest in effective health and safety programs WCB will be taking an appropriate leadership role in injury reduction that is both significant and sustained.

Through the adoption of this incentive process, we will see a reduction in injury rates, thereby reducing claims and rates. We will experience safety becoming a more central thought process for all employees and employers. We will create an improved image for the contracting and construction sectors in Saskatchewan, enabling it to better attract employees into the industry, both from within and outside of our province.

In short, with the adoption of our first recommendation, we will create an injury reduction environment in which all of us - employees, employers, WCB and the public - will win.

The second recommendation from the General Contractors Association of Saskatchewan is that the governance model of the Workers' Compensation Board be fundamentally altered.

Saskatchewan's WCB has the smallest Board in the country, and is the only jurisdiction in which the Board members are full-time employees. We believe that this model is out-dated, inefficient, and ineffective. In our opinion, it is time for a change.

Specifically, the GCAS is asking the Committee of Review to recommend the following changes to the Workers' Compensation Act to modernize the Board governance:

- Change the maximum membership of the Board from five to nine;
- Change all of the Board positions from full-time to part-time;

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- Maintain the Board as an even number of members representing both employers and workers with an independent Chairperson;
- Change the definition of the term “labour organizations” to allow for non-unionized workers to be represented on the Board;
- Change the manner in which Board member recommendations are made to the Lieutenant Governor in Council to allow for broad stakeholder input through legislated stakeholder committees; and
- Implement a process by which the Lieutenant Governor in Council receives recommendations for the Chairperson of the board from legislated stakeholder committees after a professional search process.

The net effect of these changes would be that WCB would be governed by a nine-person part-time Board. The nature of this Board would ensure greater engagement of members with their relevant stakeholders, and would create the necessary distance to avoid perceptions of conflicts of interest between the Board and WCB administration. These changes would bring Saskatchewan more in line with other jurisdictions in Canada, and would ensure that a modern approach to Board governance is in place at WCB.

The third recommendation of the General Contractors Association of Saskatchewan is that WCB deals with appeals outside of the WCB Board.

As we are recommending significant changes to the governance structure of the WCB, we want to continue to ensure that appeals are handled in a professional and appropriate manner both for employers and employees. To that end, we are asking the Committee of Review to recommend the creation of an Appeals Commission, appointed by the Lieutenant Governor in Council, on the recommendation of the stakeholder advisory committees, to handle the final level of appeals that are currently handled by the WCB Board.

We would support a model similar to that in place in Manitoba, in which the Appeals Commission includes representatives of the public interest (appointed, without recommendation, by the Lieutenant Governor in Council) and representatives of both employers and employees. Every appeal, whether simply a file review or an oral hearing, sent to the Commission should require a review by an Appeal Panel consisting of three members – an employer rep, an employee rep, and a public interest Chair. These Appeal Panels should have the full authority to subpoena and adjudicate as the WCB Board does now, with all decisions being considered final.

Prior to making a final recommendation on the creation of this Appeals Commission, the GCAS asks the Committee of Review to request directly from Manitoba, details on the current costs of managing this appeals system. The Committee of Review is also asked to consider alternative mechanisms for achieving the same outcome – a separation of the appeals function from the governance structure of the WCB. For instance, the Committee should look at whether it would be possible for this appeals function to be handled through existing appeals/adjudication mechanisms currently in place in Saskatchewan.

Our last recommendation is that the WCB consider instituting a new Subcode within the B13 Rate Code; specifically one that covers office workers employed by construction companies. Many of our General Contractor member firms undertake the physical construction on the job sites primarily through the use of subcontractors. In these cases, the General Contractor often has very few direct employees on site. In fact, many general contracting firms will have more office based employees than field-based employees.

General Contracting is primarily a service industry, employing many workers who seldom leave the office environment. Rather than the Building Construction B codes, a more accurate representation of the risks encountered by these workers would be represented by the S12 Rate Code – Offices, professionals. Given that the S12 Rate Code has a premium of \$0.26 and the B13 Rate Code has a premium of \$2.43, it appears that General Contractors are contributing more than their fair share to the pool.

The WCB Rate Code book states “Firms whose operations fall under more than one code are assessed in the subcode that represents the larger payroll.” As an “office, professionals” subcode does not exist under B13, some of our members are paying a rate that does not accurately reflect the work of the majority of their payroll.

To conclude, the General Contractors Association appreciates the opportunity to convey its recommendations to the Workers Compensation Board Committee of Review. We take this opportunity very seriously because the issue is so important to all of us.

As we put forward our four primary recommendations - the implementation of an incentive system, reorganization of the WCB structure, an independent appeals process and a subcode for office workers employed by general contractors – we are mindful of the opportunity for significant gains for all of the parties involved.

With enhancements to the WCB system, employees can have access to a process that best serves their interests in the area of workplace safety and compensation. Employers in the contracting and construction industries can continue to build on their strong track record of safety improvement. The WCB can achieve an improved image as being balanced, fair and transparent. And the province of Saskatchewan can be seen as a legislatively fair and balanced jurisdiction.

Thank you for your time, attention and consideration of the recommendations of the General Contractors Association of Saskatchewan.